

The Unintended Consequences of Narrowing Bona Fide Service Fees

(Updated 1/17/24)

Healthcare distributors provide services to support manufacturers, which are often paid for as [bona fide service fees](#). These are fees paid by a manufacturer to an entity, such as distributors, and cover such services as:

- Inventory management;
- Pick, pack and ship;
- Managing credit risk; and,
- Chargeback processing.

To be classified as bona fide, service fees must meet the Centers for Medicare and Medicaid Services' (CMS) [four-prong test](#).

To enhance prescription drug affordability, policymakers are considering policies to narrow the definition of bona fide service fees. However, these policies would not lower drug prices — in fact, they would only destabilize the pharmaceutical supply chain on which patients depend.

To be bona fide, fees:

1. Must be at fair market value.
2. Must be for an itemized service performed for the manufacturer and paid for by the manufacturer.
3. Must be for a service that the manufacturer would otherwise perform (or contract for) in the absence of the service arrangement.
4. Cannot be passed on, in whole or in part, to a client or customer of a distributor.



A Narrower Definition Is Harmful, Not Helpful

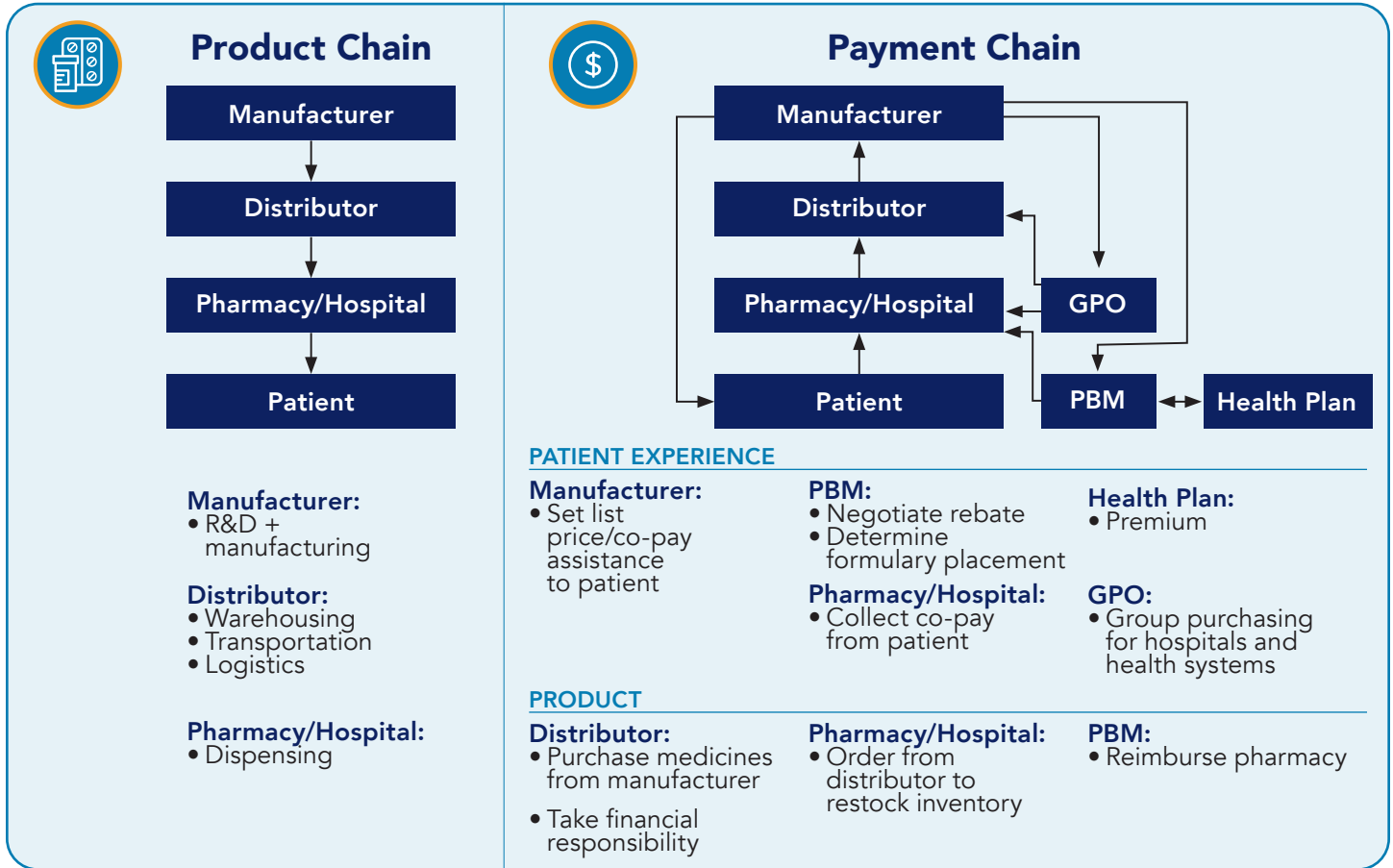
Bona fide service fees are calculated, in part, using the wholesale acquisition cost (WAC) of a product, and reflect the costs of getting the product to the patient. Narrowing the definition of bona fide service fees would:

- **Lower the average sales price (ASP) of a drug artificially, negatively impacting provider reimbursement.** ASP is connected to provider reimbursement in the Medicare program, meaning a lowered ASP would negatively impact providers and patients. No matter what happens to the definition of these fees, products will still need to be moved to sites of care. With a narrowed definition, manufacturers would no longer be able to treat bona fide service fees as price concessions, as they currently are. This will result in increased prices for the manufacturer, as the manufacturer would no longer be able to consider the bona fide service fee as exempt from statutory pricing calculations that they submit to the government. The treatment of bona fide service fees would increase the cost of doing business on the manufacturer side, and reduce reimbursement for providers, ultimately jeopardizing patient care.
- **Worsen drug shortages by creating additional strain in the supply chain, especially for low-margin generic manufacturers.** Generic drug prices will be deflated, and these dynamics will inevitably drive more manufacturers out of the already complex generics market.

Understanding the Difference Between Fees for Service vs. Fees for Access

It is important to note that bona fide service fees underwrite the physical movement of drugs through the pharmaceutical supply chain, as they are fees for services; they represent the fair market value of a bona fide, itemized service performed on a manufacturer's behalf. Other entities, such as pharmacy benefit managers charge fees for access (through drug formulary placement).

Narrowing the definition of bona fide service fees will lead to unintended the nation's healthcare system with unintended consequences for patients. Accordingly, HDA and its members caution against changes that will narrow this definition.



Sources: [Drug Channels, 2021](#); [USC Schaeffer, 2017](#)

Bona fide service fees make it possible for safe and effective pharmaceutical distribution. Learn about the distribution industry's commitment at HDA.org/healthcare-affordability.

About the Healthcare Distribution Alliance

The Healthcare Distribution Alliance (HDA) represents primary pharmaceutical distributors — the vital link between the nation's pharmaceutical manufacturers and pharmacies, hospitals, long-term care facilities, clinics and others nationwide. Since 1876, HDA has helped members navigate regulations and innovations to get the right medicines to the right patients at the right time, safely and efficiently. The HDA Research Foundation, HDA's nonprofit charitable foundation, serves the healthcare industry by providing research and education focused on priority healthcare supply chain issues.